

## Modernizing Insecurity: the Land Titling Project in Honduras

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# Modernizing Insecurity: The Land Titling Project in Honduras

Kees Jansen and Esther Roquas

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## ABSTRACT

The Honduran land titling project (the *Proyecto de Titulación de Tierra para los Pequeños Productores*), initiated in 1982, was intended to enhance security in land rights, to facilitate credit and to improve agricultural productivity. This study explores how the project has operated in one village, and concludes that it has attained none of its objectives; instead, it has triggered new sources of land conflicts, thus adding to the existing complex of local rules and laws. The authors argue that the failure of the project is not solely a consequence of the organizational incapacity of the bureaucracy, as some evaluations suggest, but that it is rooted in mistaken assumptions about the social organization of property rights and the causes of insecurity. The land titling project is founded on a contradiction: although based on the ideology of the capitalizing family farm in the context of a withdrawing state, its implementation actually requires strong and repressive state intervention. Rather than reducing insecurity in property rights, the project has merely 'modernized' the sources which can be used to contest rights in land.

In 1982, the Government of Honduras and USAID signed an agreement to start the *Proyecto de Titulación de Tierra para los Pequeños Productores* (PTT, Land Titling Project for Small Farmers) (Honduras, 1982). According to the *Instituto Nacional Agrario* (INA, National Agricultural Institute), which was assigned to implement the project, its three main objectives were 'to benefit small and medium size producers by granting them definitive property titles which will convert them into legitimate owners of the land'; 'to provide rural people with security and peace so that they can invest in their parcels and participate more fully in the development of the production process'; and 'to ensure that coffee farmers, and small and medium size producers, can obtain technical assistance and credit to increase the production of food, work and family income' (INA, 1990: 2, our translation). This article examines the criticisms of rural people in Honduras towards the project, and

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explores whether the issuance of land titles did indeed transform the situation from one of insecure property rights in land into one of increased security and improved agricultural production.

In order to do this, we will first discuss some general assumptions underlying land titling programmes, before going on to outline the characteristics of PTT and its implementation in El Zapote, a village in the Santa Bárbara district of Honduras.<sup>1</sup> By examining the nature of land rights and transfers before PTT was implemented, it becomes clear that differential access to a variety of rules, from different sources, can lead to a situation of both security and insecurity in land rights. We then analyse why villagers perceive PTT to be a threat to local tranquillity and to their rights, and discuss how the project has been transformed and used by different people. The article concludes that the project's objectives of productivity improvements and the creation of a 'land market' have not been achieved. PTT fails to build upon the local structure of property distribution, and disregards the ways in which land titling affects social differentiation. It can be argued, in fact, that the project 'modernizes' existing insecurity of rights in land.

#### **TITLING AND PROPERTY RIGHTS IN LAND**

In general, land titling is related to registration, to the modernization of agricultural production, improvement of land markets, and growth of security and social stability in the countryside (Lemel, 1988). Land titling programmes collect and register data about property rights; land registration fixes boundaries of parcels of land and combines a particular parcel with the name of a property holder. Through the land title, and institutions responsible for registration, a property holder becomes connected to the state, thus enhancing tax-levying possibilities. Furthermore, it is generally supposed that titling encourages on-farm investment, soil conservation measures, and adoption of new technology, even when the availability of credit does not improve (Atwood, 1990). Land titling and the creation of a land market are currently seen as elements of neo-liberal policies, and international funding agencies are very willing to provide financial assistance to such programmes (see Dickerman et al., 1989, on Africa).

These general assumptions are also present in the Honduran land titling project. Land titling is considered a condition for the modernization of agricultural production and increased productivity; it is assumed that titling increases legal security of property rights in land, and that the registration of boundaries will solve conflicts peacefully (ADAI, 1990; INA, 1990). Absence of security in property rights constrains investments and causes a stagnation of agricultural production. Small farmers are not able to invest without

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1. The names of villagers and the village are fictitious.

credit, and for bank loans a proof of full ownership of land is necessary to serve as collateral. Land titles will thus improve institutional credit facilities and will stimulate property holders to make new investments (Melmed-Sanjak, 1993). Furthermore, the property holder with a land title will be less willing to migrate, thus reducing migration flows to the cities (Salgado et al., 1994).

Several authors relate insecurity of property rights in land to the 'imperfection' of the Honduran land market, the underlying idea being that mobility of land should be encouraged in order to allow land to fall into the hands of the most efficient and productive users (Melmed-Sanjak, 1993; Strasma and Celis, 1992; Thorpe, 1995). The land market is conceived to be constrained by a lack of clarity regarding the division of the different elements in the bundle of property rights (rights of use, sale, trade, rent, and division). The land title is thought to offer this clarity.

PTT is not an isolated and locally specific project. Its underlying motives and rules for implementation are grounded in a global modernization ideology. In the context of neo-liberal development, an entrepreneurial farm sector will be sustained by making land markets more flexible, which (so runs the argument) enhances the responsiveness of agriculture to market forces. Land policy shifts away from collectivist organization towards agrarian counter-reforms intended to reinforce the prospects of a farmer road to agrarian capitalism (Kay, 1995). As we will show, PTT represents the paradox of this type of neo-liberal development. It represents both a decline of developmental state policy, away from redistributive land reform, and an effort to strengthen the regulation of access to land by the state. It is, thus, not a retreat of the state but a reorganization of the state to bring it into line with the neo-liberal ideology of the free market.

### **The Problem of Property Rights in Land**

Mainstream economics views property solely as a commodity: in order to ensure its optimal allocation, it has to be exchanged through the market (Benda-Beckmann, 1995). This may explain why policies informed by these views seek to 'rectify' situations of (apparently) absent property rights by constructing such rights through state intervention. In Honduras, PTT assumed that a legal vacuum existed concerning property rights in land — a vacuum which had to be filled with a new law.

Recently, in the light of increasing doubts about the project, this idea of a legal vacuum before PTT has been subject to shifting interpretations. Several authors point to the existence of a complicated system of property rights in land before PTT was implemented: Wachter (1992) refers to it as 'informal', while 'customary' is the term preferred by Coles (1988) and other authors of the Wisconsin Land Tenure Center (see Melmed-Sanjak, 1993; Stanfield et al., 1990). According to Stanfield et al. (1990), these 'customary' property

rights originated from the state's lack of concern with the property status of national or *ejidal* land:<sup>2</sup> people occupied the land and were forced to make up their own rules.<sup>3</sup> Coles (1988) defines customary rights as barely changing rules which are transmitted from generation to generation, and which are socially recognized by local people. Wachter (1992) considers informal rights to be existing norms and rules in society which can boast clear social recognition.<sup>4</sup> Both Coles and Wachter think that customary rights in land work well; people respect each other's property, and few conflicts arise. Customary rights can be claimed on the basis of the amount of time the land has been used by the claimant, and on the basis of improvements made during that period. Customary property rights in land are not only orally established but are also laid down in private documents drawn up in the presence of witnesses. Local leaders and authorities fulfil the role of witnesses, or arbitrators in case of conflict (Stanfield et al., 1990). Coles (1988) concludes that these private documents embody security for people at a local level. Thus, the idea of the absence of property rights before PTT has gradually shifted towards the existence of customary property rights which provide security for property holders and are effective, cheap and socially accepted (Melmed-Sanjak, 1993). These studies question whether the substitution of customary rights with formal PTT titles will produce a more efficient or secure system.

A problematic aspect of this literature is the strict opposition drawn between 'customary' and 'formal' rights. The exact nature of different types of rights is not specified. The characteristics of 'customary' rights, such as their origins, their dynamics, and the problems they create for property holders, remain unclear. The different authors do not adequately address the theoretical problems of differentiating 'customary' and (state) law, their specific histories, the way they interact, and the possible hegemonic role of state law. An understanding of the local structuring of property rights may solve these theoretical problems. We would argue that the dichotomy between state law and 'customary' or 'informal' law cannot be maintained for Honduras. For example, the 'informal' in Honduras contains elements of procedures that were state law in the past, and elements that are local adaptations and transformations of (former) law, both mingled with local

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2. *Ejidal* land is national land designated to the municipality. The municipality could grant usufructuary rights to *ejidal* land to its inhabitants on an individual basis.
  3. This assertion of Stanfield et al. (1990) is surprising given that the Spanish colonial rulers were involved intensively with the property status of the land (see, e.g. Newson, 1992; Vallejo, 1911). It is suggested that PTT is the first attempt by the state to gain a hold over national land, but its status had already been settled in law.
  4. Although Wachter (1995) refers explicitly to studies on customary law in Africa, we do not feel that it is prudent to use the concept of the 'customary' as it is applied in Africa for the Honduran context (cf. Atwood, 1990; Stanfield et al., 1990).

norms which are not related to state law at all.<sup>5</sup> Hence, the 'informal' is not one body of rules and principles, but a combination of different elements from different normative spheres.

The continuous process of redistribution of the land since the beginning of this century has resulted in a large variety of documents and claims in El Zapote. In the past, the municipal council could assign usufructuary rights on parcels of *ejidal* land (concessions) to those agricultural producers who applied for *dominio util* (use rights). The legal abolition of *ejidal* land with the land reform law of 1974 meant that the producers on these parcels lost their *dominio util*. In everyday life, however, the holders of these use rights consider themselves owners of the land. A procedure leading to the registration of a *dominio util* in the Register of Property could change these usufructuary rights into ownership (*dominio pleno*). Some rich families in the village did exactly this: they now have private titles and do not have to participate in PTT. Apart from the former *ejido* titles, several areas in the village were bought from the state by groups of people in the nineteenth century. This private land also falls outside the scope of PTT, although the problems of land fragmentation, unclear property rights, land transfers through private documents, and conflicts about land closely resemble those which occur on national and former *ejido* land.

### **THE PROYECTO DE TITULACIÓN DE TIERRA PARA LOS PEQUEÑOS PRODUCTORES**

The objectives of PTT reflect the economic and legalistic assumptions that property rights in land were not subject to regulation in the past, and that a land title is the basic collateral for assistance and credit, as well as the basis for productivity increase. PTT emerged against the background of political turmoil in Central America in the 1970s and 1980s, with civil wars and popular protests against the sharp inequalities in the distribution of resources and wealth. In Honduras, fast growing political peasant movements were the impetus behind a redistributive land reform during the first half of the 1970s (Posas, 1981). Many observers acknowledge the political and ideological importance of the struggle for land reform, although the percentage of land-poor producers who received land through the land reform programme was moderate (Kückelhaus, 1987; Ruhl, 1984). In the second half of the 1970s, large landowners regained their influence in the military government through their political movement, FENAGH, which pleaded for the restoration of peace and a change in legislation (Sieder, 1995). The two pressure groups, and their intellectual voices, accused each other of using violence, of being

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5. For interesting literature on this, and other kinds of normative pluralism, see Benda-Beckmann (1995); Griffiths (1986); Merry (1988); Tamanaha (1993).

non-patriotic, and of causing stagnation in agricultural production (compare the views of Lardizabal, 1986 and Mendez, 1986). Opposed to land reform, FENAGH claimed that individual coffee producers, operating on *ejidal* and national land, could not benefit from the land reform, although they were in need of a land title. Sandoval Corea, director of INA at the time, accused FENAGH of using this argument in order to frustrate the land reform process (Posas and Salgado, 1991). Towards the end of the decade, in the context of violence, political struggle and an inert land reform institute (the INA), the state opted for reorienting the land reform project by combining the slogans 'land rights for the poor' and 'peaceful rural development' within a land titling programme for individuals. The supposed need for titling the small and medium-sized parcels of the coffee farmers gave the impetus to push through the titling programme in spite of its critics. These critics argued that a titling programme would encourage land sales and thus reinforce the concentration of land; that it would swallow up funds which could better be used to break up large estates and redistribute land to landless and land-poor people; and that it would further weaken the idea of collectivity developed in the land reform experience (ADAI, 1990; Coles, 1988).

The titling programme received international attention; John Dimitri Negroponte (US Ambassador during the Contra-war and the repression period of the 'National Security') participated in the distribution of titles in El Zapote in 1985. He claimed to be pleased that 'PTT makes owners of hundreds of peasant families, persons who can now look for resources to obtain credit and technical support, very important aspects for the advancement of the agricultural sector in Honduras' (AHPROCAFE, 1985).

A special division of INA was created for the implementation of PTT, which received considerable financial support from USAID. The total budget was more than US\$20 m. The programme started in the Santa Bárbara district with two agencies involved: the *Catastro* (National Cadastral Directorate) measured parcels, collected information about boundaries and users, and mapped them; the titling brigades of INA registered those property holders who signed an agreement to accept a title to their land. The brigades completed further administrative procedures, including organizing the payment of titles. According to the titling decree, all parcels of between 5 ha and 50 ha on national or *ejidal* land could be titled. Parcels of less than 5 ha with coffee could also be titled. Parcels of less than 17 ha received a title called *Unidad Agrícola Familiar* (agricultural family unit). Since it is prohibited by law to divide or sell these without the consent of INA, the agricultural family unit title does not provide farmers with full ownership rights in land.<sup>6</sup>

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6. The agricultural family unit had already appeared in earlier agrarian laws (e.g. 1924 and 1936; see Honduras, 1943); the aim was to protect agricultural producers from having an estate which would be too small for survival.

Table 1. Delineated Area and Issued Titles in El Zapote, 1983/1984

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Delineated parcels	962
Number of titles issued	477
Titles with more than one parcel	112 (23% of 477)
Parcels falling within a title	668 (69.4%)
Delineated area	4113 ha
Titled area	2175 ha (53%)
Untitled area	1411 ha (34%)
Other area*	529 ha (12.5%)
Parcels < 5 ha	760 (79%)
Titles < 5 ha	342 (72%)
Titles > 17 ha	16 (3.4%)

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*Note:* The term 'other area' refers to private land, common grounds (e.g. the cemetery, the communal forest for cutting firewood), and unoccupied land.

*Source:* Calculated from Dirección Ejecutiva del Catastro (30 May 1984) Listado de Proprietarios Proyecto Titulación de Tierras, and INA lists of PTT titles.

### PTT in El Zapote

By 1990, PTT had resulted in the issue of 40,288 titles in seven districts. The outcome of the implementation process in El Zapote in 1983 and 1984 is summarized in Table 1. Those applying for title on agricultural family units had to pay 60 L<sup>7</sup> (approximately US\$30) per ha for these parcels; parcels larger than 17 ha were valued at 100 L/ha. Most people in El Zapote received an agricultural family unit title. At just 4.6 ha, the titles in El Zapote have a lower mean area than the national average of 8.2 ha (INA, 1990). The majority of the titled parcels are small, 79 per cent being less than 5 ha, and are smaller than those in the evaluation studies of Stanfield et al. (1986, 1990). In many titles, parcels used for maize were combined with parcels for coffee, allowing the holder to register parcels and groups of parcels smaller than 5 ha. The evaluation studies compare parcels with titles but do not mention the practice of putting together parcels into one title, and the effects of this practice.

The evaluations of Stanfield et al. note differences in the rate of titled land in different districts, and suggest that property holders show differential interests in titling. However, it is not clear that 'interest' is the factor causing the high percentage of titled land in the Santa Bárbara district. We believe that it is related to the fact that the project started in Santa Bárbara (with more promotion than in the other districts, see Stanfield et al., 1986) and that people had no experience with the programme as yet.

Many people say that they were unaware of the implications when they signed the application form. When they received the title they found a set of

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7. L = Lempira. At the time of issuing of titles, the exchange rate was US\$1 = 2 Lempiras. The Lempira started to devalue only after 1989.



about six vouchers on which was stated how much they had to pay for each quota. They could also pay the whole amount at once, but this was rarely done. The parcel could be sold or transferred only after all quotas were paid. Payment was slow, however, and after some time the INA decided to increase its efforts to collect the money. At this point, many people in El Zapote signed a new promissory note (*pagaré*), which stated that due to economic poverty they had postponed payment, but that they would comply in the future. A second campaign was launched in 1994, again with the intention of collecting outstanding debts. By then, 21 per cent of the titles in El Zapote had been fully paid (calculated from PTT data, 'Listado de Saldos Por Municipio, 1994').

Several evaluation studies criticize PTT. Montaner Larson (1995), for example, concludes that PTT titles did not substantially increase access to credit. Salgado (1987) claims that for 91.4 per cent of titling beneficiaries, the title has not served as collateral for credit. Fandino (1993) and Wachter (1992) find that titling does not directly increase access to credit. Stanfield et al. (1990) are more positive and argue that there 'appears to be a relationship', but admit that the increase 'is not dramatically impressive' (and 75 to 80 per cent of the title holders do not receive credit at all). Titling does not lead to significant increases in investments, such as soil conservation and fertility improvements, as had been hoped (cf. Wachter, 1992, 1995). In El Zapote few producers receive credit, and land titles are not an important collateral for bank credits. Most titled land has a low value; hillside land for maize is valued at about US\$60 to 90 per ha. In an interview, the regional director of BANADESA (rural development bank) stressed the importance of the nature of improvements (which do not appear on the original title) rather than the value of the land. Furthermore, properties, such as houses, are far more important as collateral than land. The few coffee producers who have bank loans have mortgaged their houses (many coffee producers tend to invest profits first in improving their houses) or their coffee production.

In spite of such criticisms, however, most observers remain generally positive about PTT. Only Salgado (1987) weighs up the increase in national foreign debt which the project has brought with it, and the frustration of title holders over the insignificance of the titles. It is difficult to imagine why other observers continue to promote the land titling adventure (cf. Stanfield, 1992; Stanfield et al., 1986, 1990). A greater understanding of the perceptions of parcel holders themselves about local conflicts, discontinuities and the disruptive effects of the PTT intervention might stimulate a reconsideration of these conclusions and of the central assumptions of PTT. For instance, Coles (1988), who has conducted much research on the producer side, concludes that producers do not have information about laws, that the costs of the procedures are too high, and that title holders are driven to despair by INA refusal to approve the sale of land. Coles focuses exclusively on the titling procedure and the effects of titling on transactions: to complement this work, we examine social relations in the village, and analyse how titling

has become an extra complication in social life from the perspective of villagers.

### The Nature of Insecurity and Security before PTT

The central aim of PTT is security of property rights in land. There are two contrasting views on the situation before PTT: the past as 'wild west', with no rules or laws, and the past as peaceful and conflict-free, adhering to harmonious 'customary' property rights. Neither of these images suits the situation in El Zapote. The experience of Excequiel, a local producer, displays elements of the conflictive and insecure context in which people make their claims, although this context was certainly not unregulated.

#### *Excequiel*

Excequiel (b. 1946), and his wife Rosa (b. 1956) have four sons and two daughters. Two sons have migrated, while the other children still live in the household. At the age of seventeen, Excequiel had chosen not to leave his village but to stay and take care of his infirm parents. When he wanted to marry Rosa, her father refused to authorize their marriage; Excequiel had to 'steal' (*robar*) Rosa, as a result of which they did not receive any help from Rosa's family. Excequiel and Rosa started to work and live on his parents' land, but after a few years, his father decided to bequeath the land to his youngest son, which meant that Excequiel had to leave the land and his house. He worked for a period as a day labourer. When they had saved some money by raising pigs, he bought land to plant tule (*Cyperus canus*, a fibre crop used to weave sleeping mats). Some years later (in 1980), the state claimed this land (which was supposed to be national land) in order to build a dam and a power plant. Excequiel received some money and a new plot of land as compensation, but he is still bitter about the small size of the plot, only one quarter of the original area.

The new land turned out to be unsuitable for tule, so he decided to plant banana trees on it. One day a friend came to tell him that all the young banana trees had been devoured by cattle belonging to a Foster Parents Plan development programme. The group of producers working on this programme had deliberately opened the fences so that the cattle could forage on Excequiel's land. When Excequiel went to see the leader of the group, he was told that he should keep quiet because there were many of them, and they had 'Plan' on their side. Excequiel complained to the Foster Parents Plan authorities nevertheless, and received some money by way of compensation. However, he was sure the same thing would happen again, and decided to sell the land to a friend who was a relative of the participants of the 'Plan' group. In 1991 Excequiel was finally able to buy new land again for tule, which he still owns.

In the 1970s, he and Rosa also bought their first coffee plot. He cultivated it for about fifteen years, until the woman who owned an adjacent plot said he had to leave because the plot was hers. This woman was not very rich but she was related to some powerful families in the village. Excequiel therefore considered her rich and decided to avoid any problems by selling his land. He had to accept exactly the same amount for which he had bought the land, even though he had planted new coffee three years earlier. This new coffee was about to produce its first real harvest; with the sale of the land, he lost three years of hard work.

In 1985, he bought another plot for coffee. However, the father of the former owner of this plot opposed the sale: at the time Excequiel was a political activist, and the other man belonged to a different political party. This man had a plot adjacent to Excequiel's, and he moved his fences and enclosed three quarters of Excequiel's land. Excequiel asked the mayor to intervene in the conflict: the mayor took the line that land must be free of problems so that it could be sold, and as a result of his intervention, Excequiel got his money back. In 1986 he

bought another plot for coffee, which he still owns. Even on this third plot, however, he has had problems with a neighbour who moved the fences in order to grab some of Excequiel's land.

To build their house, Excequiel and Rosa bought a piece of land in the village from a man who decided to sell half of his parcel. Excequiel never received a (private) document for the land. Ten years later, the owner sold the entire parcel: the new buyer received the *escritura pública* (title deed, registered in the Property Register) in which it was stated that he had bought the whole parcel including the part which Excequiel and Rosa had bought and built their house on. Fortunately, they heard the news from the brother of the buyer. The father of the buyer intervened and asked his son and the former owner to arrange things in consultation with Excequiel. As a result of his repeated pressure and the advice of a local political leader (a brother of the seller) Excequiel was able to visit the seller's lawyer. The seller supported a different political party than Excequiel did, and so did the lawyer, but the lawyer did not notice this, and thought that Excequiel was to receive political preference. The lawyer decided to arrange all the documents quickly and for a much reduced price.

Excequiel has tried several times to buy land to grow maize. He agreed a price with a woman near the village, but her brother, who owned the adjacent plot, told him that he would be denied right of way, so he could not buy the plot. (The brother later bought the land himself.) In 1995 Excequiel was finally able to buy some land for maize.

Excequiel's experiences are not unusual. His story reflects widespread practices regarding property rights in land in the village. The fact that Excequiel has practically never had a parcel of land without having some kind of problem is typical of the experiences of many. Four elements of the local practices of conceding and contesting property rights are prominent here: inheritance practices, state intervention, threats, and the role of the courts.

Firstly, neither Excequiel nor Rosa ever received a portion of their parents' property as inheritance, despite being entitled to it according to civil law. Although he took care of his parents and worked on their land, Excequiel did not become their heir. Conforming to local custom, his father decided to give all his property to his youngest son. Rosa received nothing from her parents' property: the local custom of 'wife stealing' led to the application of another local rule that such a scandalous daughter should not be entitled to inherit. Hence, inheritance *practice* in the village differs from inheritance *law* and, for many people, inheritance may not be the way to gain secure property rights.

Secondly, Excequiel, together with many other producers, lost land because it was considered to be national land. The state decided to build the power plant and ordered the clearance of the area: 178 producers lost land which had been well-suited to the cultivation of tule, vegetables and other crops. At first, the government did not intend to pay any compensation, but after joint protests by the producers, the government agreed to pay for the improvements which had been made on the land and to give the producers new land to start afresh. Nevertheless, many producers felt cheated: they had considered themselves to be owners of the land, not just users, and the distinction which the state made between different types of rights was not clear to them. Eventually, however, they realized that there was little room for protest, and they accepted compensation for the improvements made. This disconnection of improvements from other property rights was also new

to them. Where previously improvements had been perceived as a manifestation of property rights, land and (the product of) labour were now turned into two different commodities. When producers use the concept of improvements nowadays, it is almost always in relation to this specific event. They also argue that the engineers involved at the time were not able to evaluate the improvements adequately, and that they received too little compensation.

Thirdly, Excequiel faced a variety of threats which resulted in the loss or sale of his land. People tend to prefer to sell their land rather than risk the consequences of a threat; they want to stay out of 'trouble'. Excequiel lost (or almost lost) parcels of land because of: the destruction of his crops and the concern that it would happen again; the intended occupation of his land by a neighbour, and the fear that the other party had the resources for confrontations involving lawyers or courts; differences in political party affiliation which motivated and glossed over land-grabbing; the sustained unwillingness of a former owner to pass him the necessary documents; and denial of the right of way by a neighbour. These kinds of threats demonstrate the forms of insecurity that are present in local property regulation. Another important element, not yet illustrated, is the fear of violence. Violence may mean physical threats (with or without weapons, such as machetes, guns, stones); it may also include threatening behaviour such as moving fences, destroying plantations, poisoning animals of the other party, and so on. The existence of threat as a common element in structuring property rights in land is not something which is taken into account by economic theories on the transfer and distribution of property.

Finally, there is the role of the courts. Excequiel's case shows that disputes regarding property rights are not usually settled in courts: instead, the fear of becoming involved in a court case operates as a threat. Poor people would rather enlist the help of political leaders than turn to the law to claim their rights — they are better able to manipulate the clientelist system than the judicial system. In specific cases, local political leaders, municipal officials, or the mayor can fulfil the role of an intermediary. Excequiel's perception of lawyers and courts is that they are heavily politicized and only accessible to the rich. You not only have to bribe the lawyer, the rival party or the judge; you also have to pay for stamps and official documents, for trips into town, hotels and other expenses. The fact that such expenditures can lead to bankruptcy has been demonstrated by several cases in the village.

### **The Differential Use of Rules**

The rural tradition of a peaceful local system of land rights based on social control and harmonious relationships between people, as claimed by Stanfield et al. (1990), simply does not exist. This does not mean that property rights in land are not regulated at all; however, such regulation is not accomplished by customary means, but through a combination of rules

regarding issues of land transfers, boundaries or rights of way, and private documents, which stem from variations in, and interpretations of, the law and local normative frameworks of gender, inheritance, and so on. People can, and do, make use of different rules from different sources, and the differential exploitation of these inevitably involves issues of power. This leads to a property rights regime which is neither harmonious nor unchanging. At the same time, however, the existence of these rules and resources means that competition about land is not entirely determined by the 'law of the jungle'.

#### *Customary/Informal or Legal Procedures?*

Many local practices concerning property rights are rooted in the legal procedures for transferring property rights. The sale of a parcel of land is often laid down in a deed of purchase (*papel de venta*), a private document between buyer and seller. The rights in this land can be registered by a lawyer in a notarial act, a condition for acquiring a registered title deed. All these procedures follow certain prescriptions requiring, for example, the presence of witnesses, measurements by the municipal authorities, written statements of the municipality, and notarial acts of a lawyer.

The deed of purchase is one of the most important documents in securing property rights. This document states that a person has paid for the land, which is normally a convincing proof of ownership. The deed of purchase is also used to divide the inheritance. In the past, property holders drew up a will to divide property amongst heirs. However, the will proved a very vulnerable instrument: after the death of a property holder, disputes among the heirs over the distribution of properties, as if the will did not exist at all, were common. As a result, the strategy seems to have changed and most land holders now transfer their property by deeds of purchase. The chosen heirs receive a document which states that they have bought the plot of land: even though no payment has actually been made, having a deed of purchase reduces the possibility that someone else will claim the land. A further advantage of deeds of purchase is that they are generally accepted by local moneylenders as collateral. Private documents play a more important role than social control in gaining access to local credit facilities. Since land transactions using deeds of purchase follow the legal procedures and are recognized by state authorities and the judicial power, it cannot be claimed — as some do — that these transactions are 'informal' or 'customary' (see, for example, Stanfield et al., 1990).

#### *Non-legal Normative Frameworks*

Land rights are not regulated by customary law in Honduras (except for some small ethnic groups): none the less, certain elements which are not based

in legal procedures do influence land rights. In Excequiél's case, for instance, the issues of gender and inheritance played an important role. Gender is used as a resource in struggles for land between men and women within families, and among heirs. An example of this is the notion that a married daughter does not need to receive land as an inheritance, because working the land is not a woman's task. Roquas (1995) analyses inequality in the distribution of land in Honduras, in spite of the equal rights laid down in the Civil Code. Another example is the system of ultimogeniture in which the youngest son (or sometimes another child) receives most, or all, of the parents' property. The case of Excequiél also shows how the clientelist political system can influence the way in which land rights are defended or contested.

### *Local Interpretations of Law*

Important local notions about 'fences' and 'work', and how they stand for rights in land, are derived from law. Fences determine the boundaries of a property, and represent the expression of a claim. Fencing is subject to law: property holders are obliged to fence in their parcel, usually using barbed wire. This requires the permission of the municipal council, which is only granted if the receipt for purchase of the barbed wire is submitted. The land holder has to prove that both the barbed wire and the land are his own property and not 'grabbed' from somebody else.

The prohibition of fencing in some situations — and the resistance to prohibition — illustrates the power of the fence to sustain a claim. For example, it is strictly forbidden to fence in land on the village commons. Nevertheless, several villagers have fenced in parts of the commons, and have even sold these plots, or rented them to others. Once the fence is accepted the property claim is also accepted. In everyday life, the significance of the fence is at least equivalent to that of a legal document. It is an important instrument in struggles for land. Moving fences is a common strategy in stealing land from a neighbour (see Excequiél's story), and the destruction of a fence by cutting through the barbed wire is seen as a symbolic and threatening action. Fenced land thus expresses a claim which is sustained in law as well as in local norms, but which at the same time can be challenged by the actions of others. Similarly, the fact of having worked the land also represents a claim which is sustained by local norms: one cannot remove a producer from the land once it has been worked, and labour has been invested. This local norm is supported by the Civil Code, which includes the notion that working and holding land generates a claim for possession.<sup>8</sup>

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8. Earlier colonial legislation assigned property rights to a person who had worked and lived on the land for four years (for an instruction of 1513, see Vallejo, 1911: 37). According to the agrarian law of 1924 (Ley Agraria, art. 19, see Honduras, 1924) one could claim ownership when a plot of land had been worked for at least ten years.

These observations lead to two conclusions. Firstly, we cannot consider regulation practices regarding property rights in land in El Zapote as merely 'customary' or 'informal'. The procedures for claiming property rights are largely in accordance with rules established by law. So-called customary rights are in fact not customary at all, but are interpretations based on legal procedures and recognized by the state and the judicial powers. The fact that most property holders consider themselves the owners of the land is not the result of an 'informal' or 'traditional' claim, but is founded on legal notions and property categories. The claims that people make are based on a layered interpretation of various former and prevailing laws, such as the Civil Code of 1906, and Agrarian Laws of 1974 and 1992 (see Honduras, 1975, 1989, 1992).

The second point is that the regulation practices of property rights in land do not necessarily provide property holders with security: they are in fact characterized by aspects of both security *and* insecurity. Security can originate in the social recognition of rules regarding land transfers, boundaries and private documents. At the same time, however, mechanisms of land grabbing, state claims on land, and threats or violence undermine this security.

## PERCEPTIONS OF PTT PRACTICES

During the first part of our stay in the village we heard people talking about PTT as something that had happened in the past. According to the common perception in the village, it had not changed the local nature of land transactions, although it had certainly complicated life. In their view, it had generated new taxes, had divided families, and had helped certain shrewd characters to cheat the ignorant.

### *Paying Twice*

Evaluation studies of PTT have expressed surprise that people refuse to pay for the titles, since the amounts involved are relatively small (Stanfield et al., 1986; Wachter, 1992). Property holders do not have to pay for the survey and cadastral mapping, nor for the legal and bureaucratic services provided by INA. They have to pay for a part of the value of the land (fixed at 60 L, or US\$30, per ha for the agricultural family unit in El Zapote). In the eyes of INA, and the evaluation studies, the price of the land title was relatively low and easy to settle even for small farmers.

However, there is a difference of opinion between villagers and INA concerning the exact status of the payments for the titles. Many villagers perceive the payments as new taxes: in most cases, they bought their land from another producer, and feel that they already own it, so consequently are

reluctant to 'pay twice'. The market value of most of the land in El Zapote is US\$60 to 90 per ha. INA's interpretation is that they are offering producers the chance to obtain property rights in national land for a low price (they show little understanding for the fact that the price may still be too high for small producers). In the villagers' eyes, they are being asked to pay half the value of the land in this new tax.

Nor has the state apparatus maintained a consistent position regarding the producers' obligation to buy the land from the state. Different representations existed among the different state sectors that were involved in PTT. Officials from the land registry, who made the cadastral survey, assured the property holders that the land was theirs, in order to get full co-operation for their tasks. Politicians, too, regularly supported the view of the villagers. During his campaign for the 1989 presidential elections, Rafael Callejas of the Nationalist Party visited El Zapote. Many villagers recall how Callejas declared that he would abolish the taxes imposed by the Liberal Party, claiming that they were unjustified because the land already belonged to the people. This clearly did him no harm: he won the presidential election.

### *Dividing Land and Families: The First 'Operativo'*

In terms of people's perception and the image acquired by PTT, the first *operativo*, or campaign, launched in 1983, was very significant. Firstly, many people assert that INA personnel told them only after they had signed the application form that they would have to pay for the title. Although it is difficult to check the extent to which this happened, it is possible that property holders signed the application form because they thought it was obligatory.

The official INA policy was that one title could hold up to ten parcels, as long as the total amount of land did not exceed 200 ha. In practice, however, the INA brigade officers worked with the rule that a title could not contain more than two or three parcels, and that a person could only hold one title. It is not clear why INA imposed a limit on the number of parcels that could be titled. El Zapote is characterized by a highly fragmented distribution of parcels; the constraint imposed by INA meant that a farmer could title no more than three of his parcels. INA officials 'solved' this problem by advising people to title remaining parcels in the names of other household or family members, for example a wife, son, brother or *compadre*. Many people followed this advice, only to find that INA subsequently took the named person to be the owner, while the actual holder usually retained the documents and the control of the parcel. When interviewed, a high INA official denied that this had ever been the practice; according to him, a title could include a maximum of ten parcels and there were no restrictions on the amount of titles a person could hold. However, we obtained contradictory information from INA brigade officials who were directly involved in the



implementation of the project. They were evaluated according to the number of titles they issued per day. Hence, their practice was to combine only a few parcels in one title, and then title other parcels in the names of family members, to achieve the highest number of titles possible.

Another problem emerged because the INA prescriptions excluded specific groups of people from titling their land. INA did not accept joint owners, such as siblings who had jointly inherited one parcel. It forced joint owners to title the parcel in one name. In several cases, this led to problems when the title holder decided to sell the parcel without the consent of the other heirs, which he or she was now legally entitled to do. Another problematic group were female property holders. Several women lost legal claim on their land during the delineation and titling process, when their parcels were titled in the name of their husbands. However, a contrasting development was that some husbands were forced to title parcels of land in their wife's name, because of the restrictions mentioned above. After receiving the INA title, some women considered these parcels to be their own property, and took control decisions (such as renting, selling or refusing to sell, transferring to children, and so on) which went against the wishes of the original holder.

Thus, in some cases, the first of the PTT operations sharpened intra-household conflicts over rights in land. People acquired a land title that they hadn't asked for, and which, in most cases, implied a drain on their income and resources. Rifts developed between family members as a result of conflicts about ownership and control of the land. The story of Don Hugo Portillo illustrates this process.

#### *Don Hugo Portillo*

Don Hugo Portillo (b. 1921) is not a typical peasant who works on the land and struggles to survive: he is a retired primary school teacher and is respected because of his literacy. To supplement his pension, he began agricultural activities and now uses his retirement to engage in agricultural production. Compared to many other people in the village, Hugo has a considerable income, as well as cultural capital which he can use in his favour.

When his father died, Hugo's sister Josefa inherited the 16 ha of land he owned. Josefa died some time later, and their brother Eusebio got hold of the *escritura pública* for the land. However, Hugo told us: 'After Josefa's death I went to her house and found the INA title for her land. The people thought at that time that these titles had no value. I saw that it was signed by lawyers and thought: "this must have some worth". Just at that moment some INA men were in the village. I went with my brother Julio to the INA, and we each paid one quota of 195 L. The INA lawyer asked me if we had other brothers. I told him of our sisters Alicia and Argentina. He asked me if they were poor. I answered that they didn't have a penny to their name. He replied that I should not be worried: we just had to pay the quota and the land would be ours. Later, Julio insisted that I should sign the promissory note, so I did; I also paid two other quotas. In the end I paid the entire sum of 950 L. We divided the land between me and Julio'.

Hugo's brother Eusebio was furious when he found out what had happened. Hugo explains: 'He wanted to have me put in jail. I had to present myself in court. When our case started Eusebio showed the *escritura pública*, and the judge concluded that the land was his. When he saw my [PTT] title he said that I did not have any claim, because the title bore my sister's name and not mine. I replied that that was okay, that I would just go to *Radio Hondas de Uhua* [a regional radio station] and have it broadcast that from now on nobody should pay the

[PTT] title because it had no value for the judge. Another man (from INA) started to talk quickly with the judge. Then, they told me that they would arrange things and that I would get the land'.

Don Hugo is well aware of the rules of the game: claiming one's rights costs money, which his poor sisters could not afford. His strategy was to get INA officials to take his money in payment of the quota as soon as possible. We observed several other cases with similar types of conflict, which led to direct payment of the title. In such cases, payment of the title is not a means of avoiding future conflicts (one of PTT's objectives), but one action in an ongoing conflict. PTT in fact offered new possibilities to the actors involved in conflict situations. As an unintended consequence, INA acts as a defender of one party — which often turns out to be the most powerful one — against others.

It is clear that relationships between the members of Hugo's family are severely disturbed. The villagers, who all know this case, say that it demonstrates another element of the outcome of PTT: the titling project opened up space for the avaricious. Sharp inequalities of wealth and power in the village enable some people to manipulate the programme for their own benefit. PTT increased conflicts and local insecurity by offering opportunities for some to enrich themselves at the expense of others.

### *The Second 'Operativo'*

The second *operativo*, launched in 1994, more than ten years after the start of PTT, implied a break with the earlier programme. Its main aim was to collect outstanding debts in the titled areas. In spite of the cheerfully coloured leaflets, the new campaign had a threatening character from the beginning. The voluntary aspects of titling and the promises of its future advantages virtually disappeared, making room for a new emphasis on compulsory payment of outstanding quotas. Since we were in the village at the time, we were able to observe this campaign at first hand, to witness its effects, and to watch INA personnel interfacing with their 'target group'.

Tempted by the posters, pamphlets and radio spots, we decided to visit the INA office in Santa Bárbara. A large crowd was waiting in front of the INA office, which had always been closed previously. Inside the office, an INA promoter listened to a man telling his story. He had taken his *escritura pública* out of a filthy plastic bag, but the promoter told him that the document had no value. She told him that he had to speak to the person who had sold him the land, and who had the PTT title in his name. She warned the man that if the original vendor were to pay the quota, he would again be the owner of the land. The man with the *escritura* continued to expound his problem: he said that many others had bought land from this man. The promoter repeated her point that he should arrange things with the vendor, who had the title. The vouchers were to be paid within fifteen days; other-

wise, INA would sell the land to another buyer. She referred to the agreement between USAID and INA, and to the fact that all issued titles must be paid. 'The only thing which is of interest to USAID is the money'.<sup>9</sup> The man said that he wanted to pay immediately, but the promoter replied that he needed the vouchers from the man who had sold him the land.

The leaflet that INA distributed during the second campaign called upon those producers who had not yet paid the quota to visit the nearest INA office within fifteen days: if the title holder failed to appear, INA would start to evaluate any improvements and to repossess the land. The leaflets were stamped and signed by the director of INA. During our visit, the INA promoter not only threatened people with the sale of the land, but also claimed that those who did not pay the title would not have the right to receive the *bonus* (subsidy) which coffee producers receive for each bag of coffee. However, this subsidy was not related to the titling issue, and in fact in 1994 it had already been replaced by other types of intervention: it is clear that the promoter did not know precisely what was going on in coffee production, but she intended to use the *bonus* as an additional threat, to convince the producers to pay the title. She repeatedly emphasized that the land would be sold to others if they did not pay. In other instances we observed INA personnel telling producers that they had to pay, because only then would the state help them if others tried to invade their land.

Two weeks after our visit to the office, an INA brigade of four people presented itself in the village. A car with a sound system invited people to come to the community centre to 'legalize their parcels'. They were told to bring with them a photocopy of their identity card (a xerox does not exist in El Zapote, and few people will have a photocopy at home). An hour later, we found only five producers in the community centre; perhaps another ten arrived later. Most had only come to see what was happening, and very few actually talked to the brigade personnel. Those cases which did come up, however, illustrated how INA personnel pass over all conflicts and problems by repeating that they only want the people to pay the title.

One man complained that INA did not want to delineate his coffee field. He said that when the surveyors came ten years ago, he was working on one of his other plots; when he arrived in his coffee field, the INA staff had already left. The delineators had included his coffee field in a larger parcel of the neighbouring producers, two poor widows. They did not pay the title because they did not have the money to do so. The INA promoter told him that he would have to arrange things with the widows: they would first have to pay the title, and then the man could go to a lawyer to arrange the division

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9. The INA official responsible for PTT confirmed during an interview that the second *operativo* was mainly meant to collect payments and not to title new land, which was the official interpretation. 'In fact it is the World Bank which requires that the Ministry of Hacienda collects the overdue debts', he explained, adding that it was not the responsibility of INA to mediate in conflicts in the process.

of the land. The man said again that the widows were poor and could not pay. When we suggested that this man was not culpable for the mistakes of INA in the past, the promoter retorted that the delineators were other people, from long before he had come to work in the INA. His job was to carry out the programme and to force people to pay the title. The man became more insistent: it was only a small parcel, he said, about half a *manzana*.<sup>10</sup> The promoter seemed suddenly relieved, and replied that INA does not title parcels of less than one and a half *manzana*. The INA brigade then dismissed everyone with parcels smaller than 1 ha, even those who already had (unpaid) PTT titles. During the first campaign, INA had titled all parcels above 0.1 ha, according to the law. However, the more recent law on agricultural modernization had prescribed that all parcels should have an extent of at least 1 ha (Honduras, 1992).<sup>11</sup>

The working methods of INA were the subject of much local criticism. A promoter could not find a particular parcel on the cadastral map of El Zapote, and refused to believe us when we told him that the parcel was on another map, further south. He continued searching for at least half an hour. The villagers had already deduced that the parcel must be on another map, but the misunderstanding continued, because the promoters used terms like 'south-east' which is not the producers' way of indicating places. Villagers talked of incidents in the past when personnel of *Catastro* and INA appeared to be drunk while carrying out their work. INA personnel lost lists and vouchers, or did not receive the right maps from Tegucigalpa. Some people never received a title because the list with their name had disappeared. Others received vouchers without a title, or received a second bill after having paid the title.

In the meantime, outside the community centre, two men were discussing the idea that the title might become important in the future, for selling the land. People in the village did not want to buy land 'with problems', and a parcel with an unpaid PTT title might become a 'problem'. One result of the second campaign was that this view was disseminated around the village. Although few people had visited the INA brigade that day, many were becoming excited about the subject, and feelings were running high; in their perceptions, it might be necessary to pay the title in order to get rid of INA. However, this was not so easy: many people did not have the money to pay the title; a former owner might keep the title and the vouchers, and refuse to give them to the new owner; one person among a group of heirs might refuse to pay, and obstruct joint payment. From the discussions in the street it was clear that nobody expected the PTT titles to change the long-term structure of local land distribution practices. They felt sure that the bank would not

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10. 1 *manzana* = 0.69 ha.

11. According to the National Director in charge of PTT this was a result of peasant organizations which pressed for a minimum extent.

give loans to people with a PTT title ('the bank even prefers the old *escritura pública*'). At the same time, they feared more disputes and violence within families.

From our observations of the second campaign, we conclude that INA still wants to give the image that they are helping poor farmers who work to meet their subsistence needs on a small plot, claiming that the title will help them solve their tenancy problems. However, the campaign shows that INA is not interested in tenancy problems at all. In interactions with their 'target group', INA personnel refuse to hear or think about disputes. There seems to be just one major goal: to collect money from resource-poor people. In order to achieve this, INA uses various forms of deceit, and even downright threats which have no firm legal basis.

### **Local Perceptions and the Future of PTT**

Local perceptions of PTT are generally negative. Many people feel deceived by the programme, because they were forced to participate and obliged to buy land which they felt was already theirs. The rules used during the first campaign, either legal or illegal, intensified existing problems of rights in land and resulted in new conflicts. Some people lost their property rights in land, some were able to use PTT as a resource to gain rights at the expense of others. Nowadays, the title holders are exposed to INA's threats that they will lose the land if they do not pay.

Most people we met are involved in some kind of complex situation or conflict regarding land. The local perceptions towards PTT explain why 79 per cent have not paid for the titles. Stanfield et al. (1986: 20) consider it a strong point of the project that 'only the initial agreement of the farmer should be sufficient to start the titling process and carry it through to approval and issuance of the respective title'. However, the gap between the programme and local perceptions, the plurality of normative frameworks, and the neglect of ongoing struggles for land, create the weakest points of interface between the state and the land holder. Local perceptions show that there never was an 'initial agreement' with the people; they feel that they have been more or less forced into the programme.

With the second campaign, the programme has become obsessed with collecting outstanding debts, and has repeated its earlier failures. Firstly, property holders have been threatened openly by INA personnel. If they do not pay the title, they will not receive the subsidy for coffee, INA will sell the land, or will allow others to invade the land, heirs will encounter problems if the property holder dies without having paid the title, and so on. Aside from the fact that this is not an elegant way of working, the threats are often pure invention. Secondly, INA's official position is that it will not interfere in ongoing disputes about land. This policy of INA 'neutrality' enables one of the parties in an ongoing conflict to use PTT as a resource in its favour. At

the same time, the introduction of PTT titles has led to many new problems and conflicts. Here, too, INA refuses to intervene. The policy of neutrality seems contradictory to the objective that titling will increase security and peace in the countryside. Thirdly, property holders complain about the implementation of the project, which is technically inadequate and confusing. Fourthly, PTT never achieved the aim of developing a good cadastral and registration system which reflects real land rights. Instead, many parcels are excluded from registration.

In spite of the low esteem for PTT, the rate of title payments may rise in the future because the real costs for rural people are now much lower. The debts of 60 L/ha are interest-free; in real terms, costs can be estimated to have fallen by 80 per cent (from US\$30 per ha to US\$6 between 1984 and 1995). This may make it easier for villagers to agree to payment now, to prevent problems in the future. Such payment for titles, however, will probably not replace the locally existing practices of land distribution. People will continue to divide, bequeath, and sell their land without taking the trouble (and spending the money) of registering transactions and legalizing sales.

## CONCLUSIONS

The generally positive assessment of the land titling programme in Honduras which appears in evaluation studies is not sustained by the perceptions of the local people. PTT has not achieved its main objectives. The present form of registration will not result in a complete cadastral and registration system; many parcels will not be registered because they are not eligible for titling. The programme was designed in such a way that many people never applied for a title. Very few transactions and parcel divisions that took place after 1984 have been registered. The register is thus a very distorted representation of the locally and legally accepted distribution of land rights. We have argued that, with respect to legal security and the determination of boundaries, PTT has not improved the earlier situation; it tends to create new conflicts rather than resolve existing ones.

The second objective of PTT was to realize productivity improvements. Our observations back up those evaluations which state that PTT has not given the anticipated impetus to increasing investment and productivity. Some studies (e.g. Nesman et al., 1989) suggest that a credit and technical assistance programme should accompany the titling project, but this undermines the core assumption that titling automatically generates an improved credit supply. These evaluations do not question whether a credit programme really needs a new system of land registration. The same applies to those studies which propose titling as a way of improving soil conservation.

The third objective of land titling was to create a free land market. Recent studies agree on the need to improve land markets (Salgado et al., 1994; Stanfield, 1992). They give a rather legalistic definition of the land market, in

which a market only exists if it involves transfers of registered land titles, resulting in optimal allocation of the resource. By this definition, PTT has not improved the land market, since very few transactions take place in that way. Furthermore, some had anticipated that PTT would have the positive effect of causing a rise in land prices (Stanfield, 1992: 199). Apart from questioning how a rise in land prices would help resource-poor farmers — the target group which was supposed to benefit from the project — we would also like to question two other important shortcomings of this abstraction. To understand the economic behaviour of rural people, it is important to explore why and how resources are transferred among them. The abstract, a priori definition of the land market, however, is methodologically blind to certain actions, such as the use of threats or violence. Secondly, it conceals the possibility that prices can rise because PTT functions as a hindrance to sales. PTT has brought additional costs which did not exist in the earlier rule system.

The failure of PTT to fulfil its objectives is related to problems in the implementation of the project. These are not only a matter of organizational incapacity on the part of INA, USAID or the Honduran state. A more basic problem is that the project made incorrect assumptions about social relations with respect to rights in land, and land transfers. A second problem is that the changed role of the state — one of the consequences of such a project — has never been adequately addressed.

The first of these problems can be illustrated with the view of a villager that the project was ‘copied’ from other countries, without any adaptations: ‘Everything comes copied. I do not know from which country they copied the [PTT] law . . . The orientation of INA was good, but the problem is our acting . . . INA explained that the title was a family unit [forbidden to divide and sell without INA’s consent], but the peasant sold it. And the worst thing is that he now notices that all he sold is still his’. There are several important points in this short quotation. Firstly, it makes the distinction between local rules of conduct and PTT procedures; secondly, and relatedly, it points out that PTT was not based on the local situation, but was imported — in this case, from international development agencies and universalistic thinking about land titling. Thirdly, the discrepancy between INA’s notion of the agricultural family unit and the producers’ actual practice highlights the contradictions between assumed economic behaviour and actual behaviour on the ground.

Time and again, advocates of land titling adopt a set of assumptions which disregard social realities. In Honduras, local conflicts, power relations, and striking differences in access to the judicial system were all overlooked during the implementation of PTT. The relatively rich were able to use the project to achieve their own goals. The architects of PTT overestimated its ability to replace existing normative frameworks regarding rights in land: to date, it seems out of the question that PTT titles will push these normative frameworks aside.

Producers on the ground do not match the imagined ‘small farmer’ who lives in the mind of the programme designers. Producers do not expect a PTT

title to clear the way to institutional credit. They do not think that their smallholdings are unproductive. They still consider the smallest of plots to be their legal property. Many do not understand why properties smaller than 17 ha should not be divided and, legal restrictions notwithstanding, they continue to divide them. Unlike INA, they do not consider coffee their sole commercial crop: many producers have tula fields which are crucial to their livelihoods. They oppose any attempt to dispute their property rights in these very small parcels.

In spite of recent adaptations, advocates of land titling continue to use a distorted view of existing economic and social relations. Evaluation studies have shifted from the idea that nothing was regulated before titling ('the wild west') to the view that, before titling, customary arrangements existed which organized land rights more or less peacefully, but which were somewhat archaic for modern conditions of credit supply and productivity enhancement ('peaceful subsistence farming'). According to Stanfield (1989), this latter situation should be developed through the formation of a 'capitalizing family farm'. This notion is based on a theoretical, homogeneous band of peasant farmers, and disregards social differentiation. It obscures the possibility of diversity and contradiction, of a delicate situation of security and insecurity, in Honduran rural society.

The second problem is the new role of the state. The implementation of PTT has reinforced local perceptions that state agencies are populated by incapable personnel and regulated through party politics. Wachter (1995) argues that titling projects are possible given an efficient bureaucracy, but that this condition rarely exists in developing countries. This implies that the assumptions underlying titling are correct, but that its implementation is obstructed by Third World bureaucracies which, for the most part, are unstable and foster arbitrariness. However, this sidetracks us from a more important problem — the intention of the project to fundamentally change the relation between property holders and the central state. In the perspective of property holders, the state is only expected to intervene through its judicial system, when conflicts are brought to court. Property holders arrange transfers of land among themselves through the exchange of private documents. The PTT title, on the other hand, is an agreement between the state and the property holder, and represents the establishment of a direct relationship between these parties. It is this proposed change in the fundamental character of state-peasant relations that makes titling in Honduras so complex. Instead of fully effecting this change, however, the state (through INA) has pursued direct, though not explicit, bureaucratic interests. It was the hidden agenda of the government *vis-à-vis* USAID and the World Bank (that is, the recovery of outstanding agrarian debts) that lay behind the second campaign in 1994. In other words, the state was motivated not so much by the need to rebuild relations of trust with the rural people, vital for making the new role of the state acceptable to them, but by the need to recuperate money.



It is hard to predict how PTT will develop, and how it will be contested in the future. A bureaucratic titling treadmill has generated the need for its own continued existence. Moreover, insecurity — an argument which was used for introducing PTT, as well as an effect of PTT — continues to exist. It is unlikely that PTT will leave the normative landscape and behaviour in land transactions untouched. People do not ignore the new document or refute its possible legal consequences, but they try to find ways of incorporating it into their own existing practices. They do not apply for PTT titles in order to reach any of the project's proclaimed objectives, but they will try to comply with INA's prescriptions because of the hurdles created by PTT itself. In the end, PTT may create its own 'success', but only through continued complicating interventions and campaigns.

In the meantime, the question remains of how to reduce insecurity of rights in land for rural people. A World Bank/USAID-supported study of land tenure security in Africa (Bruce and Migot-Adholla, 1994) concludes that policy makers should stop designing large-scale programmes of compulsory titles for smallholders. It calls for the recognition of indigenous land tenure rules, and particular local needs. However, institutions such as the World Bank typically do look for solutions in the sphere of development programmes. They adopt contradictory strategies which call for the withdrawal of the state from the countryside, to clear the way for the 'free market', and yet, at the same time, require forceful state implementation of land rights regulations. Our research in El Zapote demonstrates that many elements play a role in establishing security or insecurity of land tenure. Earlier forms of insecurity resulted from unequal access to legal defence, influenced by economic capacity (class) and by the organization of the judicial system. It is clear that even if access to legal defence for poor people were guaranteed, within the existing legal property frameworks, disputes, violence and other problems concerning land rights would not disappear. Such access, would, however, change the whole setting of these types of conflicts, and could help to strengthen the rightful claims of the weakest parties. It would also involve a selective intervention in the regulation of property, rather than assuming that one property regime for all will create a free land market to which the poor have full access.

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